Estimating Annual Numbers of Competency to Stand Trial Evaluations across the United States

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In the United States, criminal proceedings must be halted or suspended if a defendant is determined to be incompetent to stand trial. Competency to stand trial (CST) is one of the most notable intersections between psychiatry and criminal law, and evaluating defendants for CST is a key role for many forensic psychiatrists and other mental health professionals. Despite the significance of CST evaluations in U.S. criminal justice, the number of CST evaluations conducted across the country each year remains largely unknown. National estimates dating back to the 1970s have ranged from approximately 19,000 to 94,000 CST evaluations each year, but these numbers vary considerably and often stem from imprecise calculations. This article examines estimates of annual numbers of CST evaluations across the United States, the need to develop more accurate statistics, and ways to implement systems for tracking the numbers of CST evaluations across the country.

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Competency to stand trial (CST) evaluations commonly are requested as part of criminal proceedings and have evolved over the centuries as a cornerstone to a fair and accurate criminal process.[1–4] The American Bar Association's Criminal Justice Mental Health Standards once stated that "the issue of present mental incompetency, quantitatively speaking, is the single most important issue in the criminal mental health field" (Ref. 5, p 168). The 1960 U.S. Supreme Court decision in *Dusky v. United States* articulated standards for CST, stating that the "test must be whether [a defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him" (Ref. 6, p 402). These standards "had widespread influence on state laws governing CST" (Ref. 7, p S188). Subsequent court decisions have further shaped practices across the country related to CST evaluations, e.g., by limiting indefinite commitment of defendants for competency restoration[8] and shifting the standard of proof for incompetence toward preponderance of the evidence.[9]

Referred to as "competence to stand trial," "fitness to stand trial," and other descriptors, a defendant's CST may be raised by an attorney, judge, or another individual involved in the process, and the court often must decide whether an evaluation should be ordered.[1,10–12] If an evaluation is completed, a court usually then determines whether the defendant is competent or incompetent to stand trial. If incompetent, a defendant typically is referred for restoration of competence, often by treatment at a state psychiatric hospital but increasingly also in jails or outpatient settings.[13]

Despite a large body of research related to CST evaluations, including studies on assessment methods, defendant characteristics, and evaluation outcomes,[12,14–17] the number of CST evaluations conducted across the country each year remains largely

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Table 1 Estimates of Annual Numbers of Competency to Stand Trial Evaluations in the United States

Estimate	Key Year(s) of Data Used[a]	Publication Year	Methodology
36,000	1971–1972	1979	Multiplying the estimated number of defendants diverted for incompetence to stand trial each year by the estimated number of CST evaluations for each adjudication of incompetency. (Methods inferred from information in the book.)[19]
19,260–25,680	1978	1982	Multiplying the estimated number of individuals admitted to U.S. facilities for incompetence to stand trial by the estimated number of CST evaluations for each adjudication of incompetency.[20]
24,000–39,000	1991–1992	1997	A survey of directors of forensic evaluation systems asked for "low-end" and "high-end" estimates for annual numbers of CST evaluations; these numbers represent the sum of these estimates.[21]
49,611	1989–1990, 1992	1998	Multiplying a conservative estimated percentage of felony defendants referred for CST evaluations by the number of crimes listed in the U.S. Total Crime Index.[22]
60,000	1989–1992, 1994	2000	Multiplying a conservative estimated percentage of felony defendants referred for CST evaluations by an estimated number of felony indictments each year.[23]
90,200	2015	2017	Multiplying the estimated number of pretrial detainees in jails by the estimated percentage of jail inmates with a serious mental health disorder.[24]
25,634–51,500	2014	2019	A survey of officials working for public mental health systems asked for a range (e.g., 1–50, 51–200) of how many CST evaluations were performed annually in each state; these numbers represent the sum of the lower and upper end of these estimates.[25]
94,000	2019	2020	Authors used their "own calculations, based partially on national rates of incarceration at the pre-conviction level . . . and rate of severe mental illness in that population" (Ref. 26, p 65).

[a] This column may not include all relevant years of data used, as authors occasionally used additional secondary sources or data from nonspecific time periods in their calculations.
CST = competency to stand trial

unknown. In 2003, Grisso and colleagues noted that "there are no national statistics on the number of defendants who are evaluated for competence in a given year" (Ref. 18, p 69). In 2007, a guideline published by the American Academy of Psychiatry and the Law (AAPL) mentioned that "no precise U.S. statistics are available" (Ref. 3, p S3) regarding the frequency of CST evaluations.

This article examines estimates of annual numbers of CST evaluations across the United States dating back to the 1970s and the need to develop more accurate statistics. It also explores ways to improve these estimates and to implement systems for ongoing tracking of the numbers of CST evaluations across the country.

Methods

A number of online resources, including PubMed, Google Scholar, ProQuest Dissertations and Theses Global, and HathiTrust Digital Library, were used to identify estimates of annual numbers of CST evaluations across the United States since 1970. Terms used in these searches included "number of CST evaluations," "annual CST evaluations," "CST evaluations each year," and "CST evaluations every year," among others. These searches were conducted in July 2020 and sought to identify independent estimates, as opposed to secondary references to estimates elsewhere, wherever possible.

A Review of Estimates

In publications dating back to the 1970s, estimated annual numbers of CST evaluations across the United States have ranged from approximately 19,000 to 94,000. These findings are summarized in Table 1 and may not represent all available estimates on this topic. When compared over the last five decades, these statistics suggest that annual numbers of CST evaluations have increased nationally; still, the methods used to create these estimates vary and often have considerable limitations.

In a 1979 book, Steadman wrote, "The best estimate of the number of people diverted as incompetent each year in the United States is around 9,000. This group represents about one-quarter of the approximately 36,000 for whom the issue is raised" (Ref. 19, p 4). This section did not include a direct citation for the estimate that 9,000 people are diverted as incompetent each year; however, the

book later referenced a 1975 report, which mentioned unpublished data that, "in 1972, 8,825 men . . . were committed as incompetent" (Ref. 27, p 203). Describing CST-related research on defendants in New York, Steadman wrote, "Based on the estimates we obtained from the psychiatrists doing these evaluations and on prior research studies, we determined that about 25 percent of those referred for evaluation are found incompetent" (Ref. 19, p 25). These numbers underscore the complexity of the CST evaluation process, which can shape the accuracy and the meaning of these statistics.

Not all instances in which CST is raised necessarily result in referral for or completion of an evaluation.[10] When attorneys request independent CST evaluations of defendants (i.e., outside of court orders or not presented to court), these assessments might not be included in datasets that focus on court-ordered referrals for CST evaluations.[7] When defendants receive competency restoration services, mental health professionals (MHPs) may conduct regular evaluations to gauge restoration of CST; estimates of annual numbers of CST evaluations may not differentiate between these types of evaluations or may focus only on initial CST referrals or evaluations.[28] Moreover, data that are limited in scope, such as leaving out women or only from one state, may produce estimates regarding the frequency of CST evaluations that are not necessarily generalizable to other populations or settings.

In 1982, Steadman *et al.* published a survey of admissions of offenders with mental disorders to U.S. facilities, finding that 6,420 individuals were admitted under the legal status of incompetent to stand trial in 1978.[20] The authors wrote that "approximately three to four cases are evaluated for each adjudication of incompetency" (Ref. 20, p 36), referencing prior literature.[19,29] Steadman *et al.* wrote, "Using this as a multiplier, we would estimate at a minimum that there were between 19,260 and 25,680 [CST] evaluations in the United States in 1978" (Ref. 20, p 36). Since this estimate relied on defendants admitted to U.S. facilities for competency restoration, the authors pointed out that "[t]his figure would be higher to the extent that the adjudication of [incompetence to stand trial] results in community or nonstate facility placements" (Ref. 20, p 36). Of note, in a 1983 book, Steadman and Hartstone[30] referenced the same figure of 6,420 admissions to U.S. facilities for incompetence to stand trial; however, the authors this time wrote, "Using a 25 percent figure . . . to extrapolate to evaluations for incompetency from actual incompetency adjudications would result in approximately 25,000 defendants having been evaluated in 1978" (Ref. 30, p 41). This discrepancy demonstrates how seemingly minor variations in assumptions can lead to large differences, potentially representing thousands of CST evaluations, between estimates.

In a 1997 article, Hoge *et al.* referenced a national survey of forensic evaluation systems[31] in which "forensic directors were asked to estimate the annual number of evaluations of competence to stand trial, ranging from 'low-end' to 'high-end.' These estimates summed to 24,000 and 39,000, respectively" (Ref. 21, p 142). According to Hoge *et al.*, these data were provided by Grisso in an unpublished communication. Surveying public mental health systems is a systematic way to collect data related to CST evaluation, particularly since these systems historically have played a large role in CST evaluations and restoration.[32–35] This method, however, is not without limitations. In a 2014 survey of forensic mental health services in 50 states and the District of Columbia, 5 (12%) of 43 responding jurisdictions reported that CST evaluations were provided outside of public mental health systems, with funding from courts or other sources.[34] Even when CST evaluations are provided within these systems, response bias, nonresponse bias, and other factors may influence the accuracy and the generalizability of survey results. Coding of forensic evaluations often may not distinguish between different types of pretrial evaluations (e.g., initial CST determination, postrestoration CST determination, not guilty by reason of insanity, guilty but mentally ill).[33] In addition, individual defendants may undergo multiple pretrial mental health evaluations, which may further complicate these kinds of data collection.[33]

In 1998, Skeem *et al.* combined a "conservative estimate that 2 percent of defendants are referred for evaluations" (Ref. 22, p 519) and the number of crimes listed in the U.S. Total Crime Index[36] to yield an estimate that "approximately 49,611 defendants were referred for CST evaluations in 1993" (Ref. 22, p 519). This method highlights the uncertainties involved with extrapolation. Skeem *et al.* used 2 percent as a conservative benchmark for the percentage of defendants referred for CST evaluations[22]; the cited 1992 literature noted that "available data

suggest that pretrial competence evaluations are sought in between 2 and 8 percent of felony cases" (Ref. 37, p 292). Applying this full spectrum would produce a much larger range of estimated referrals for CST evaluations each year. In addition, felony-related statistics may not apply to other criminal cases where CST evaluations may be necessary; for example, defendants with mental illness are often referred for CST evaluations related to misdemeanor charges, such as disorderly conduct, disturbing the peace, or trespassing.[38–40] Finally, the U.S. Total Crime Index,[36] which lists arrests for "index crimes" (e.g., specific violent and property crimes), may not include other criminal offenses, including drug-related charges, driving under the influence, and weapons possession, for which defendants may be referred for CST evaluations. Numbers of arrests for specific offenses also may not reflect numbers of defendants because defendants can be charged with multiple offenses at a time.

In 2000, Bonnie and Grisso[23] cited retrospective studies[41,42] indicating that "attorneys express some doubt about their clients' competence in about 10 percent of felony cases, and that they seek evaluation in about half of these situations" (Ref. 23, p 78). Using a "conservative national estimate, based on referrals in 5 percent of 1.2 million felony indictments," the authors estimated that there were "60,000 pretrial competence assessments per year" (Ref. 23, p 78). The authors reported extrapolating 1994 data from Bureau of Justice Statistics publications to generate the estimate of 1.2 million felony indictments per year.[43,44] These calculations have similar limitations as those used by Skeem *et al.*[22]

In a Treatment Advocacy Center report, Fuller *et al.* wrote that, out of approximately 400,000 incarcerated individuals in U.S. jails and prisons with mental illness, "an estimated 90,000 were defendants who had been arrested and jailed but had not come to trial because they were too disordered to understand the charges on which they were detained" (Ref. 24, p 1). To reach this number, the authors first cited an estimate from the Prison Policy Initiative that there were 451,000 pretrial detainees in jails during 2015.[45] Then, the authors applied "the generally accepted estimate that 20 percent of jail inmates have a serious mental health disorder, [yielding] an estimated total of 90,200 pretrial candidates for competency services" (Ref. 24, p 7). Beyond the uncertainties of extrapolation, this approach also has additional shortcomings that warrant consideration. First, although many defendants who are deemed incompetent to stand trial experience mental illness, having a serious mental illness is not equivalent to incompetence to stand trial, and defendants with serious mental illness are presumed to be CST unless deemed otherwise. Second, using serious mental illness as a proxy for incompetence to stand trial may exclude defendants referred for CST evaluations for different reasons, such as dementia or intellectual disabilities.[46] Third, since defendants may be referred for CST evaluation outside of detention, such as community settings, using the number of pretrial detainees in this calculation may not estimate accurately the number of candidates for CST evaluations.[34,47,48]

In 2019, Gowensmith wrote, "Courts order an estimated 25,634 to 51,500 CST evaluations each year nationally" (Ref. 25, p 2). This article referenced a 2014 survey of U.S. forensic mental health services, in which "the number of evaluations a state provide[d] annually varie[d] from fewer than 50/year to 'approximately 5,000'" (Ref. 34, p 8). The survey asked officials responsible for public mental health systems about the number of CST evaluations performed annually in each state. The survey included results from 34 states, categorized into ranges of evaluations (e.g., 1–50, 51–200). The range of estimated CST evaluations each year represents the sums of the lower and upper ends of these numbers. This approach is similar to the methods described in the 1997 article by Hoge *et al.*[21]

In 2020, Owen and colleagues estimated that the annual number of CST evaluations in the United States was a conservative 94,000, using their "own calculations, based partially on national rates of incarceration at the preconviction level . . . and rate of several mental illness in that population" (Ref. 26, p 65). For the numbers of people incarcerated at the preconviction level, the authors also referenced statistics from the Prison Policy Initiative.[45] This method resembles the calculations described in the Treatment Advocacy Center report.[24]

One statistic that appears repeatedly throughout CST literature is the estimate of 25,000 to 36,000 CST evaluations each year, attributed to a 1973 report by McGarry *et al.*[17] Multiple sources, including the 2007 AAPL guidelines for CST evaluations, cite McGarry *et al.* as the source of this estimate.[3,50,51] We

were unable to identify these numbers in the final 1973 report by McGarry *et al.*

The Need for Accurate Estimates

National estimates may provide a sense of the broader scope and the costs of CST evaluations, as well as the workforce needs for these services; however, a statistical landscape of CST evaluations on a state-by-state basis would likely be more useful than generic national numbers. It is important to note that statutes, evaluation procedures, and funding for CST-related services typically are determined and vary at the state or even local, rather than national, level. For example, in a one-day census during 2014, there were 1,256 forensic patients admitted to state psychiatric hospitals in California for incompetence to stand trial, compared with just 87 in Pennsylvania, which may be due to a number of state differences, such as population sizes and roles for state psychiatric hospitals in the CST process.[33] If seeking to reform CST procedures in their respective states, stakeholders in California and Pennsylvania are likely to find nationwide estimates about numbers of CST evaluations to be less helpful than a statistical landscape of numbers of CST evaluations across individual states, or even local jurisdictions, on an annual basis.

Existing estimates highlight the challenges of accurately calculating annual numbers of CST evaluations across the country, but it is still important to develop these data for several reasons. First, accurate estimates about the numbers of these evaluations are needed to inform CST-related policy-making. Multiple authors have referred to CST evaluation and restoration services across the United States as being in a state of crisis.[25,52] They describe exponential increases in the demand for competency-related services, resulting in long waits and additional risks for defendants who raise questions of competency.[25,52] The 2017 Treatment Advocacy Center report by Fuller *et al.* identified litigation in at least 13 states regarding inadequate provision of CST-related and other pretrial mental health services.[24]

Costs are a major concern for CST-related services. Cost estimates for these services have varied in recent decades, with a 2013 book chapter conservatively estimating that CST evaluations may cost $300 million per year in the United States.[38,53] This cost estimate relied on 60,000 evaluations each year, as described by Bonnie and Grisso in 2000,[23] and "a typical evaluation cost [of] $5,000 per defendant" (Ref. 53, p 286). Applying this method to more recent estimates of CST evaluations (e.g., 25,634 at the low end published by Gowensmith in 2019 and 94,000 published by Owen *et al.* in 2020) would produce a range of $128 million to $470 million in annual costs for CST evaluations. Although imprecise, these calculations demonstrate how differences in estimated numbers of CST evaluations may indicate hundreds of millions of dollars in perceived differences of need, as well as potential budgetary impacts, for CST-related services. Local, state, and federal policymakers may not be able to allocate resources adequately for CST-related services if basic information (e.g., how many defendants undergo evaluation for CST) is not accessible regarding the need for these services.

Collecting more data related to the frequency of CST evaluations could help policymakers identify other systemic factors that shape availability and use of these services. For instance, several studies suggest that approximately 1 percent to 8 percent of defendants charged with felonies or misdemeanors may be referred for CST evaluations.[41,42,54,55] It is not clear whether these referral rates apply across the country today, as many of these studies took place in small numbers of jurisdictions and occurred decades ago. Still, if specific jurisdictions were to demonstrate consistently different results than expected from publicly available data, these findings might alert policymakers to examine potential reasons behind these discrepancies. A jurisdiction that consistently referred a higher-than-expected percentage of defendants for CST evaluation might be taxed by inappropriate referrals, which may prompt policymakers to consider a screening checklist or other measures to mitigate unnecessary referrals or overuse of resources.[56] By comparison, a jurisdiction that consistently referred a lower-than-expected percentage of defendants for CST evaluation might be addressing defendants' mental health needs inadequately; policymakers might consider enlisting mental health experts to work with court officials about CST-related services and to help improve access to these services. These types of statistical comparisons may also facilitate identification of systemic biases, such as the role of race, language, immigration status, poverty, and other factors, that shape the provision of CST-related services in different jurisdictions.[12,14,57–59]

Second, since MHPs usually are asked to perform CST evaluations, accurate estimates about the

frequency of CST evaluations could influence mental health training and workforce development. Many MHPs do not learn about or participate in CST evaluations during training,[60,61] and trainees often have misconceptions about working with incarcerated individuals.[62] The logistics of completing CST-related evaluations may pose one barrier to recruiting MHPs to this work, as CST referrals may arrive sporadically. MHPs often perform these evaluations on a part-time basis, which can require fitting them into their otherwise busy schedules. If trainees and practicing MHPs are not aware of the needs for CST evaluations, however, they may be less likely to perform these services, and a lack of available evaluators may contribute to prolonged waits by defendants for CST evaluations. Developing a better understanding of workforce needs for CST evaluations is necessary if training programs and professional organizations are to respond to meet these needs.

Third, a large body of literature on CST often cites these estimates, and, if these estimates are inaccurate or outdated, these figures may misrepresent the scope of CST evaluations in the U.S. criminal justice system. For example, the Bonnie and Grisso book chapter in 2000 included the estimate of 60,000 CST evaluations each year[23]; as of December 2020, this chapter had 252 citations listed in Google Scholar, and 113 (45%) of these citations referred to this estimate.

Establishing Data Collection Systems

As suggested by this review, estimating annual numbers of CST evaluations across the United States in a comprehensive manner is by no means straightforward. Referrals for CST evaluations may come from different sources (e.g., attorneys or judges). MHPs of different backgrounds (e.g., psychiatrists, psychologists, and social workers) may perform CST evaluations. These evaluations can take place in various environments, such as public hospitals, jails, or outpatient clinics. In addition, these evaluations may be performed for defendants prosecuted for different types of crimes (e.g., violent or nonviolent offenses), for different levels of charges (e.g., misdemeanor or felony), and in different jurisdictions (e.g., state or federal courts). Researchers may face additional hurdles, such as obtaining institutional review board approval or informed consent from defendants, when seeking to obtain these kinds of data.[63]

Since estimates have been sporadic during the last five decades, continually updating these statistics with more recent data, using the methods identified in this review, would be one path forward. For example, conducting more frequent surveys of public mental health systems might provide a better picture of CST evaluations in these systems.[32] Even with more up-to-date data, however, the methods identified in this review have a number of shortcomings that may skew estimates, as discussed previously. There are many potential ways to track numbers of CST evaluations across the United States, such as regularly surveying attorneys or forensic psychiatrists about the frequency of CST evaluations; nonetheless, each approach brings a unique set of drawbacks and may not necessarily produce considerable improvements over existing estimates.

Implementing data collection systems for tracking CST evaluations may be the most sustainable, as well as comprehensive, approach moving forward. Designing these systems requires consideration of which CST-related data should be collected, as well as categorizing these data by different checkpoints in the CST evaluation process. For example, measuring frequency of initial CST evaluations captures different information compared with the frequency of postrestoration CST evaluations of defendants previously deemed to be incompetent. Data collection systems ideally would track the frequency of referrals for CST evaluations, initial CST evaluations, and postrestoration CST evaluations within specific jurisdictions, such as individual states; however, developing a landscape of estimates related to CST evaluations across the United States would require creation and coordination of systems from numerous jurisdictions. Building these systems may require greater investment of resources, such as time and money, compared with generating estimates from brief surveys or extrapolating from research literature; still, these systems could facilitate identification of existing inefficiencies in resource allocation for CST-related services, which may bring considerable long-term cost savings.[56] These types of data collection systems could also be used to track pertinent information related to other forensic mental health services (e.g., not guilty by reason of insanity evaluations, sex offender programs).[56] This section describes two examples of data collection systems that might improve estimates related to the numbers of CST evaluations across the country.

Tracking Judicial Orders

Since referrals for CST evaluations typically involve a court order from a judge, documenting these orders in court system databases and tracking the numbers of these orders could facilitate better understanding of referrals for CST evaluations in jurisdictions across the country. Tracking judicial orders for CST evaluations could capture data on an ongoing basis that control for numerous variations (e.g., who raised the question of CST, which MHPs perform evaluations, where CST evaluations are performed) in the process of CST-related adjudication. Some jurisdictions (e.g., Colorado) already track court-ordered referrals for CST evaluation to a certain degree. In a 2015 report, the Colorado Department of Human Services Office of Behavioral Health documented that the number of court-ordered referrals for inpatient CST evaluations at one of its two state psychiatric hospitals had risen from 63 in 2005 to 378 in 2014, representing a rise of approximately 500 percent.[47]

This approach still faces a number of obstacles. First, court systems may not have databases for collecting or tracking CST orders over time. A judge's order for a CST evaluation often is a piece of paper that ends up in a defendant's court case file. A 2020 report by the State Justice Institute noted that the "coordination of law enforcement, behavioral health, jail, and court data is difficult. There are disparate data elements, definitions, client identifiers, and technical systems . . . it isn't clear that there is a consensus about what competency process data should be collected or that there is any urgency about compiling those data" (Ref. 64, pp 9–10). Establishing these data collection systems may require use of resources that jurisdictions do not have or that policymakers may be unwilling to invest for these purposes. Second, CST evaluations may be requested by numerous types of courts, perhaps according to crime level (e.g., felony versus misdemeanor) or defendant age (e.g., adult versus juvenile courts). Court referrals for CST evaluations constitute a largely decentralized and variable process across the country, which has led to calls to consolidate CST cases onto specific court calendars, which would allow for specialized teams of experienced judges, attorneys, and evaluators to manage these cases.[64] Absent these reforms, estimating numbers of CST evaluations across the country through judicial orders would require not only setting up databases to track these orders, but also integrating data from many different types of court settings. Finally, not all CST evaluations take place through judicial orders, as in situations when a private defense attorney might seek out CST evaluation of a client outside of the court system. Although these types of CST evaluations may not constitute a large part of evaluations taking place across the country, estimates based solely on judicial orders may not take into account all CST evaluations that take place. Despite these limitations, establishing court databases to collect information on court-ordered referrals for CST evaluations may still represent considerable improvement over current techniques for estimating the frequency of these referrals.

Developing State Oversight Systems

Developing state systems that oversee and collect data on CST evaluations in their jurisdictions is another way to track the frequency of these assessments. In 2016, Virginia enacted new state-wide oversight procedures for forensic mental health evaluations[28]; Virginia Code § 19.2–169.1 requires that court-ordered CST evaluations be performed by a psychiatrist or psychologist who has completed training recognized by the Commissioner of the Virginia Department of Behavioral Health and Developmental Services, has demonstrated competence to perform forensic evaluations, and has qualified for a list of approved evaluators maintained by the Comissioner.[28] To facilitate peer review and maintenance of the list of approved evaluators, this section also requires submission of redacted copies of completed reports to the commissioner.[28] Maintaining defendants' privacy can be challenging during the process of CST-related adjudication, which often involves discussion of psychiatric records and reports, as well as potential expert witness testimony, in open court[65]; nonetheless, collecting de-identified data may support the privacy of those undergoing CST evaluations. A 2020 study identified 3,644 CST evaluations submitted by 126 evaluators in Virginia between July 1, 2016, and January 29, 2018.[28] A number of other states are exploring or have implemented similar oversight systems related to CST and other forensic mental health evaluations.[56,66] Expanding these types of state oversight systems might enable better tracking of CST evaluation frequency at local and state levels, which could provide a more detailed landscape of CST evaluations across the United States.

This approach is also not without limitations. Because of differences in court frameworks, CST

evaluation frequency, CST-related funding, and policymaker attitudes, not all states may be able or willing to establish oversight systems as done in Virginia. Even if more states developed these types of oversight systems, there would still be a need for national or regional organizations to coordinate data collection and analysis across the country.[32] Circumstances in which MHPs complete an evaluation but do not write a report might escape data collection. In addition, given that at least 20 states have reported waitlists for CST-related services,[33] introducing new requirements for training, approval, and reports related to CST evaluations could deter clinicians from conducting these assessments, potentially further slowing down systems already deemed to be "in crisis."[25,52] Of note, the 2020 article on Virginia CST evaluations stated that 94.4 percent of approved evaluators completed training through the Institute of Law, Psychiatry, and Public Policy at the University of Virginia, which offers a five-day course on forensic evaluations.[28] By comparison, just 5.6 percent of evaluators received approval by completing advanced psychiatry or psychology training (e.g., forensic fellowships or board certification). As a result, rather than deterring clinicians from performing CST evaluations, establishing these kinds of oversight and training systems might encourage some MHPs to participate in CST evaluations, particularly among MHPs who do not want to complete formal fellowship training or obtain forensic board certification.

Conclusions

As many states face crises related to defendants' CST, policymakers at local, state, and national levels need reliable and current evidence to inform their decision-making and to reform the provision of CST-related services. Improving information about the needs for CST evaluations may also shape workforce development among MHPs, as well as research and scholarship related to CST. In recent years, MHPs and others have called for greater data collection in psychiatry and the law to support the development of evidence-based practices and policies.[52,67–70] Developing better understanding of the landscape of CST evaluations across the United States is no exception. Given the degree to which CST evaluations can influence criminal proceedings, setting up systems for tracking numbers of CST evaluations is one way to ground practices in forensic psychiatry, and U.S. criminal justice more broadly, in data.

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